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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/028,284

12/28/2001

Jonathan Boswell

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HUNTON & WILLIAMS LLP  
INTELLECTUAL PROPERTY DEPARTMENT  
1900 K STREET, N.W.  
SUITE 1200  
WASHINGTON, DC 20006-1109

EXAMINER

GREIMEL, JOCELYN

ART UNIT

PAPER NUMBER

3693

MAIL DATE

DELIVERY MODE

10/16/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/028,284	<b>Applicant(s)</b> BOSWELL ET AL.	
	<b>Examiner</b> JOCELYN GREIMEL	<b>Art Unit</b> 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-62 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/26/03, 06/23/04</u> .                                      | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This communication is in response to Applicant's application filed 28 December 2001. This non-final rejection is being reissued to correct an error in the non-final rejection of 25 February 2008. The Examiner is correcting a mistake in the 102(b) rejection below.

#### ***Status of Claims***

Claims 1-62 are currently pending. Claims 1, 24, 46, 51 and 56 are independent claims.

#### ***Information Disclosure Statement***

The Information Disclosure Statements filed 26 November 2003 and 23 June 2004 have been reviewed.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 recites the limitation "the present value", claim 4 recites the limitation "the incentives", claim 5 recites the limitation "the commissions", claim 6 recites the limitation "the fees", claim 22 recites the limitation "the pricing metric", claim 23 recites the limitation "the at least one

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predetermined pricing metrics”, claim 34 recites the limitation “the at least one predetermined pricing metric.” There is insufficient antecedent basis for these limitations in the claims. The claims will read more clearly if the language used is the same as in the preceding or related independent claims. Please review all the claims for this problem.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-62 are rejected under 35 U.S.C. 102(b) as being anticipated by Phillips et al. (US Patent No. 7,133,848 B2, hereinafter Phillips). In reference to claims 1, 24, 46, 51 and 56, Phillips discloses a method, system and apparatus for analyzing a financial services pricing process comprising the steps of:

- a. receiving data in at least one input file of a pricing process summary tool from at least one data source (col. 2, line 50+);
- b. processing the received data using at least one data analysis tool of the pricing process summary tool (col. 3);
- c. generating a pricing process summary including the sub-steps of measuring a plurality of predetermined pricing metrics, and graphing the predetermined pricing metrics (col. 3);

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d. wherein the pricing process summary identifies a present value of each of the predetermined pricing metrics in relation to others of the predetermined pricing metrics (col. 3-4).

3. In reference to claims 2-23 and 25-39, Phillips discloses a method, system and apparatus for measuring various types of data, including pricing metrics and/or the measurement thereof:

e. Predetermined pricing metrics;

f. Discount;

g. Incentives;

h. Commissions;

i. Fees;

j. Underwriting; and

k. Market gap.

l. Also, implementing an action plan;

m. Receiving various types of data;

n. Reviewing the pricing process;

o. Identifying opportunities;

p. Defining pricing metrics (at least col. 2-4; col. 6-9 for sales data, cost data, supply data and price data).

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4. In reference to claims 40-45, 47-50, 52-55, Phillips disclose a method, system and apparatus for receiving and/or reviewing data (discloses receiving various types of data via different systems), including:

- q. Various systems;
- r. Various data types;
- s. Various files;
- t. Reviewing data;
- u. Identifying opportunities;
- v. Metrics definitions (at least col. 1, line 60 – col. 4, line 25).

5. In reference to claims 57-62, Phillips discloses a method, system and apparatus for:

- w. Various worksheets;
- x. Various systems;
- y. Various analysis systems;
- z. Various input files;
- aa. Various system tools (col. 1 – col. 4; see also col. 5-9 for transaction, price, sales, cost and supply data).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- i. Christeson; 5,926,817

ii. Foster; 6,052,672.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOCELYN GREIMEL whose telephone number is (571)272-3734. The examiner can normally be reached on Monday - Friday 8:30 AM - 4:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jocelyn Greimel  
Examiner, Art Unit 3693  
October 1, 2008

/Stefanos Karmis/  
Primary Examiner, Art Unit 3693